

AMENDED IN SENATE MAY 6, 2013
AMENDED IN SENATE APRIL 22, 2013

SENATE BILL

No. 676

Introduced by Senator Block

February 22, 2013

An act to amend Section 10148 of the Business and Professions Code, relating to real estate.

LEGISLATIVE COUNSEL'S DIGEST

SB 676, as amended, Block. Real estate records: unlawful destruction.

Existing law requires a licensed real estate broker to retain for 3 years copies of all listings, deposit receipts, canceled checks, trust records, and other documents executed by him or her or obtained by him or her in connection with any transactions for which a real estate broker license is required. Existing law provides that after notice, the books, accounts, and records shall be made available for examination, inspection, and copying by the commissioner or his or her designated representative during regular business hours, and shall, upon the appearance of sufficient cause, be subject to audit without further notice, except that the audit shall not be harassing in nature. Existing law provides that any person who willfully violates or knowingly participates in the violation of these provisions is guilty of a misdemeanor with specified penalties.

This bill would authorize the Department of Real Estate to suspend or revoke the license of any real estate broker, real estate salesperson, ~~or any director, officer, employee, agent, or shareholder of any corporation licensed as a real estate broker,~~ *who if the real estate broker, real estate salesperson, or any director, officer, employee, or agent of the corporation licensed as a real estate broker* knowingly destroys,

alters, conceals, mutilates, or falsifies any of the books, papers, writings, documents, or tangible objects that are required to be maintained or that have been sought in connection with an investigation, audit, or examination of a real estate licensee by the commissioner. The bill would exempt a violation of these provisions from the criminal offense described above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10148 of the Business and Professions
2 Code is amended to read:

3 10148. (a) A licensed real estate broker shall retain for three
4 years copies of all listings, deposit receipts, canceled checks, trust
5 records, and other documents executed by him or her or obtained
6 by him or her in connection with any transactions for which a real
7 estate broker license is required. The retention period shall run
8 from the date of the closing of the transaction or from the date of
9 the listing if the transaction is not consummated. After notice, the
10 books, accounts, and records shall be made available for
11 examination, inspection, and copying by the commissioner or his
12 or her designated representative during regular business hours;
13 and shall, upon the appearance of sufficient cause, be subject to
14 audit without further notice, except that the audit shall not be
15 harassing in nature.

16 (b) The commissioner shall charge a real estate broker for the
17 cost of any audit, if the commissioner has found, in a final desist
18 and refrain order issued under Section 10086 or in a final decision
19 following a disciplinary hearing held in accordance with Chapter
20 5 (commencing with Section 11500) of Part 1 of Division 3 of
21 Title 2 of the Government Code that the broker has violated Section
22 10145 or a regulation or rule of the commissioner interpreting
23 Section 10145.

24 (c) If a broker fails to pay for the cost of an audit as described
25 in subdivision (b) within 60 days of mailing a notice of billing,
26 the commissioner may suspend or revoke the broker's license or
27 deny renewal of the broker's license. The suspension or denial
28 shall remain in effect until the cost is paid or until the broker's
29 right to renew a license has expired.

1 (d) The commissioner may maintain an action for the recovery
2 of the cost of an audit in any court of competent jurisdiction. In
3 determining the cost incurred by the commissioner for an audit,
4 the commissioner may use the estimated average hourly cost for
5 all persons performing audits of real estate brokers.

6 (e) (1) The department may suspend or revoke the license of
7 any real estate broker, real estate salesperson, or ~~any director,~~
8 ~~officer, employee, agent, or shareholder of any~~ corporation licensed
9 as a real estate broker, ~~who~~ *if the real estate broker, real estate*
10 *salesperson, or any director, officer, employee, or agent of the*
11 *corporation licensed as a real estate broker* knowingly destroys,
12 alters, conceals, mutilates, or falsifies any of the books, papers,
13 writings, documents, or tangible objects that are required to be
14 maintained by this section or that have been sought in connection
15 with an investigation, audit, or examination of a real estate licensee
16 by the commissioner.

17 (2) A violation of this subdivision shall not be subject to Section
18 10185.